

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION – IN ADMIRALTY**

CIVIL ACTION NO. 4:20-CV-00211-M

In the Matter of:

DAVID L. BLAIN and CAROLINE W.
BLAIN, Owners of a 1987 Grady White
23' +/- Gulfstream, HIN #
NTLCX226J687, NC Registration # NC-
7427 BJ, her engines, tackle, apparel,
appurtenances, towable tube, tow line,
fittings, etc.

For Exoneration from
or Limitation of Liability

**MOTION FOR JUDGMENT OF
DEFAULTS AGAINST NON-
APPEARING PARTIES**

NOW COMES David L. Blain and Caroline W. Blain (“Limitation Plaintiffs”) as Owners of a 1987 Grady White 23' +/- Gulfstream, HIN # NTLCX226J687, NC Registration # NC-7427 BJ, her engines, tackle, apparel, appurtenances, towable tube, tow line, fittings, etc. (“Vessel”), moving pursuant to Rule 55(b) of the Federal Rules of Civil Procedure and Rules F(4) and F(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (“Supplemental Rules”), and hereby requests judgment of defaults as to all non-asserted claims and all non-appearing parties for any and all losses, damages, injuries, deaths, or destruction arising out of or occurring from the voyage of the Vessel on or about August 4, 2020 and an August 4, 2020 incident which occurred on the Trent River, a navigable body of water (“Voyage”). In support of this request, Limitation Plaintiffs state as follows:

1. On November 12, 2020, Limitation Plaintiffs filed a Complaint for Exoneration from and/or Limitation of Liability, pursuant to 46 U.S.C. §§ 30501 et seq. and Supplemental Rule (F), for any injuries, damages or losses of whatever description arising out of the operation of a Vessel during the Voyage. [DE 1].

2. Pursuant to Rule F of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, on or about November 23, 2020, the Court duly issued and entered an Order Directing Issuance of Notice, and Restraining Prosecution of Claims [DE 6]. Further, on or about December 1, 2020, the Clerk of this Court issued the Notice to Claimants of Complaint for Exoneration for or Limitation of Liability, which required all persons asserting claims for any and all losses, damages, injuries, deaths, or destruction allegedly as a result of the occurrences and happenings recited in the Complaint, to file their respective claims with the Clerk and serve copies therefore on Limitation Plaintiffs' attorney, and to answer the allegations of the Complaint herein on or before March 5, 2021 or be defaulted [DE 7].

3. The Notice of said Order was duly given and published in *The News and Observer* in Raleigh, North Carolina once a week for four (4) successive weeks ending on February 3, 2021, as required by the Court, and a copy of the Notice was mailed to every person known to have made any claim, including all passengers, whether or not a claim was anticipated, against the Vessel or Limitation Plaintiffs arising out of the Voyage on which the claims sought to be limited arose.

4. The March 5, 2021 deadline for receipt of claims and answers has expired.

5. To date, Limitation Plaintiff has been notified of three claims, those of Kaitlyn Whitt-Tokie, Aleiah Nottingham and Julianna Lopez:

a. Kaitlyn Whitt-Tokie's claim was resolved and she executed a Release of All Claims; accordingly, Kaitlyn Whitt-Tokie did not respond, appear, answer or set forth a claim;

b. Kaitlyn E. Fudge [DE 9] and Coleman M. Cowan [DE 12] from the firm of Law Offices of James Scott Farrin gave this Court notice of their appearances as counsels of record for Aleiah Nottingham. Before the expiration of the monitions period, the Answer to Complaint for Exoneration from and/or Limitation of Liability and the Claim of Aleiah Nottingham [DE 10] were filed. Aleiah Nottingham's claim was resolved and counsel for the parties executed and caused to be filed a Stipulation of Voluntary Dismissal with Prejudice as to the Claims of Aleiah Nottingham [DE 88].

c. John R. Taylor from the firm of Zaytoun Ballew & Taylor, PLLC [DE 15] and John Green from the firm of Hall & Green, LLP [DE 70] gave this Court notice of their appearances as counsels of record for Julianna Lopez. Before the expiration of the monitions period, the Answer to Complaint for Exoneration from and/or Limitation of Liability and Third-Party Complaint of Julianna Lopez and the Claim of Julianna Lopez were filed [DE 16] and later

amended [DE 33]. Limitation Plaintiffs are serving a copy of this Motion upon counsels for Julianna Lopez pursuant to Local Rule 55.1(b)(1).

d. Christopher A. Abel [DE 35] and Jeanne E. Noonan [DE 36], from the law firm of Willcox & Savage, P.C., gave notice of their special appearances in this matter on behalf of Paul E. Blain, along with Justin K. Humphries of The Humphries Law Firm, P.C., [DE 38] who gave notice of his appearance as local counsel for Paul E. Blain. Third-Party Defendant, Paul E. Blain's Answer and Affirmative Defenses to Third-Party Complaint [DE 43] were filed. Paul E. Blain has not asserted a claim in the Limitation Action. Limitation Plaintiffs are serving a copy of this Motion upon counsels for Paul E. Blain pursuant to Local Rule 55.1(b)(1).

6. No other person or party has appeared, filed any claims, or filed any pleadings in this matter.

7. An Order for Entry of Default against Non-Appearing Parties was entered on March 1, 2022 [DE 89].

WHEREFORE Limitation Plaintiffs pray that their Motion for Judgment of Defaults Against Non-Appearing Parties be granted, and that this Court issue an Order entering Judgment of Defaults as to all non-asserted claims arising from the Voyage at issue in this limitation action and against all non-appearing parties having an interest in this matter; ordering that all persons in default are barred, enjoined and restrained from filing, commencing or prosecuting any claim, answer, suit, action or other proceeding of any nature or description whatsoever for or in connection with

or on account of, incidental to, or resulting from the Voyage in this or any proceeding relating to the Voyage at issue; ordering that Limitation Plaintiffs are exonerated from liability as to all persons in default; ordering that the concursus of remaining claimants in this action consists only of Julianna Lopez; and granting any and all other relief deemed just and proper under the circumstances.

This the 12th day of October, 2022.

CRANFILL SUMNER LLP

/s/ Jason R. Harris

Jason R. Harris

N.C. State Bar No. 27876

Tanis Whittington

N.C. State Bar No. 58140

101 N 3rd St Suite 400

Wilmington, NC 28401

(910) 777-6000

(910) 777-6142 Fax

jharris@cshlaw.com

twhittington@cshlaw.com

Attorneys for Limitation Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I have served the MOTION FOR JUDGMENT OF DEFAULTS AGAINST NON-APPEARING PARTIES via U.S. mail to the following non-CM/ECF participants:

Allison Papuga
4 Seabiscuit Lane
New Bern, NC 28562

Kaitlyn Whitt-Tokie
1830 Adams Lane, Apt. 23
Zanesville, OH 43701

Jorge Ardon
297 Shoreline Drive
Riverbend, 28562

Emmanuel Esparza
101 Cona Court
New Bern, NC 28560

Matthew Bonnici
5701 Hillsboro St., Apt. 7-103-D
Raleigh, NC 27606

I hereby certify that on this date, I electronically filed the foregoing MOTION FOR JUDGMENT OF DEFAULTS AGAINST NON-APPEARING PARTIES with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Kaitlyn E. Fudge
Coleman M. Cowan
Law Offices of James Scott Farrin
280 S. Mangum Street, Suite 400
Durham, NC 27701
kfudge@farrin.com
ccowan@farrin.com
Attorneys for Aleiah Nottingham

Christopher A. Abel
Jeanne E. Noonan
440 Monticello Ave., Suite 2200
Norfolk, VA 23510
cabel@wilsav.com
jnoonan@wilsav.com
*Attorneys for Third-Party Defendant,
Paul E. Blain*

John R. Taylor
Robert E. Zaytoun
Matthew D. Ballew
Zaytoun Ballew & Taylor, PLLC
3130 Fairhill Drive, Suite 100
Raleigh, NC 27612
jtaylor@zaytounlaw.com
rzaytoun@zaytounlaw.com
mballew@zaytounlaw.com
Attorneys for Julianna Lopez

Alexander M. Hall
John Felix Green, II
Hall & Green, LLP
718 Market Street
Wilmington, NC 28401
attyalexhall@gmail.com
jgreen@hallandgreen.org
Attorneys for Julianna Lopez

Justin K. Humphries
The Humphries Law Firm, P.C.
1904 Eastwood Rd, Suite 310-A
Wilmington, NC 28403
justin@humphriesfirm.law
Local Civil Rule 83.1(d) Counsel for
Third-Party Defendant, Paul E. Blain

This the 12th day of October, 2022.

CRANFILL SUMNER LLP

/s/ Jason R. Harris
Jason R. Harris